ATTACHMENT 2

United States Department of State

Washington, D.C. 20520

December 16, 2002

Ms. Janice Dunn Lee
Director, International Programs
United States Nuclear Regulatory Commission
Rockville, Maryland

Dear Ms. Lee:

I refer to the letter from your office dated October 21, 2002, requesting the views of the Executive Branch as to whether issuance of an export license in accordance with the application hereinafter described meets the applicable criteria of the Atomic Energy Act of 1954, as amended:

NRC No. XSOU8790 -- Application by Transport Logistics International, Inc. for authorization to export to Japan 25,983 kilograms of depleted uranium for test operation of the Rokkasho Nuclear Fuel Reprocessing Plant being completed in Rokkasho-Mura, Aomori.

It is the judgment of the Executive Branch that the proposed export would not be inimical to the common defense and security of the United States, and is consistent with the provisions of the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978.

The proposed export to Japan would take place pursuant to the Agreement for Cooperation Between the United States and Japan, as confirmed by the Government of Japan in a Diplomatic Note reported in the enclosed telegram from U.S. Embassy Tokyo.

The Department of State has taken note of the interventions by Greenpeace and Green Action urging denial of the proposed export on the basis of concerns about the adequacy of safeguards at the Rokkasho facility and Japan's utilization of plutonium. The U.S. Government has approved reprocessing of U.S.-obligated spent fuel at Rokkasho for recovery of plutonium for civil power reactor use. The U.S. approval is not subject to suspension

except "in the most extreme circumstances of exceptional concern from a non-proliferation or national security point of view," such as a material breach of or withdrawal from the NPT, Japan's safeguards agreement with the IAEA, or the Agreement for Cooperation. No such action has been alleged or is even remotely conceivable. With regard to safeguards, in order to satisfy the requirements of the U.S.-Japan Agreement for Cooperation, Japan is required to provide the U.S., prior to startup of Rokkasho, information regarding the safeguards approach agreed with the IAEA. The fact that the proposed export and its utilization at the Rokkasho facility are fully subject to all the terms and conditions of the U.S. -Japan Agreement for Cooperation, assures that IAEA safeguards will be applied to the export and the facility in full compliance with Japan's full-scope safeguards agreement with the IAEA.

On the basis of the foregoing, the Executive Branch recommends issuance of the requested license.

Sincerely,

Richard J. K. Stratford
Director
Nuclear Energy Affairs

Enclosure: Tokyo telegram.

GREEN ACTION

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November 15, 2002

Dr. Richard Meserve
Chairman, Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Facsimile: 1-301-415-1757

Dear Chairman Richard Meserve:

Re: Opposition to Issuance of Export License for Depleted Uranium to Japan's Rokkasho Reprocessing Facility

Green Action is a Japanese NGO based in Kyoto, Japan working mainly on Japanese plutonium fuel cycle issues.

Green Action recently obtained a copy of an application to export approximately 26 tons of depleted uranium from the United States to Japan for use as test material in the test operation of Japan's Rokkasho nuclear fuel reprocessing facility. [License Number XSOU8790, Date of Application 10/17/2002]

Green Action notes that Japan has already stockpiled more than 32 tons of plutonium in Europe for which it has demonstrated no concrete plans to consume. The Rokkasho reprocessing facility has the potential to separate 8 tons of plutonium annually, and full-scale operation of this facility will result in domestic stockpiling of large quantities of weapons-usable plutonium. Japan clearly has no demonstrable use for plutonium, and operation of Rokkasho will do nothing but greatly increase nuclear proliferation concerns in northeast Asia

Attachment B of the above license application confirms that uranium-testing is an integral part of the start-up of the Rokkasho facility, and for this reason, we believe that the NRC and the Executive Branch of the United States Government should conduct a

nuclear proliferation assessment of the impact of operation of Rokkasho prior to issuing a license to export depleted uranium to this facility.

Green Action is concerned that stockpiling of large quantities of plutonium in Japan is not only an inherent environmental and security risk in and of itself, but will also threaten world security since such a large domestic stockpile will encourage other countries to obtain or enlarge their stocks of fissile materials. Considering the enormous security risk associated with operating this facility, we believe that failure to conduct a nuclear proliferation assessment prior to issuing a license for the export of depleted uranium to Rokkasho is tantamount to the United States abdicating its responsibility concerning the management of US origin nuclear materials.

Japan's Atomic Energy Commission which is responsible for drafting Japan's Long-Term Program for Research, Development and Utilization of Nuclear Energy (LTP), continues to claim that plutonium utilization will go forward as planned. However, the track record of previous LTPs is dismal when it comes to plutonium utilization plans. (See table and chart in Attachment A.)

The AEC expects electric utilities to cooperate with the government to implement the programs outlined in the LTP, but there is no guarantee the electric utilities will do so. For example, in the eighth LTP finalized in 1994, the AEC proclaimed advanced thermal reactor (ATR) technology as "capable of flexibly and efficiently using plutonium and recovered uranium". However, only thirteen months after the 1994 LTP was finalized, the Federation of Electric Power Companies (FEPCO) submitted a letter to the AEC which stated, "...due to social pressure to reduce electricity costs it is no longer possible to proceed with the costly development of an ATR demonstration reactor" This letter went on to request a full-scale review of the entire ATR development program. As a result of FEPCO's position on the ATR, all mention of the ATR program disappeared with no explanation from the ninth LTP issued by the AEC in November 2000.

In previous LTPs, plutonium utilization was to center around fast breeder reactor (FBR) technology. However, efforts to develop commercial FBRs have proven to be more difficult than originally estimated, and development plans have been put back further and further in time in every single LTP. On December 1995, a sodium leak and fire accident occurred at the Monju prototype fast breeder reactor in Fukui Prefecture. The

accident and subsequent cover-up of the extent of the accident by the operator of the plant severely damaged public confidence in the entire nuclear industry and brought FBR development plans to a standstill.

With the ATR program scrapped and the FBR program at a standstill, the pluthermal program (the use of MOX fuel in light water reactors) became the key program for reducing Japan's stockpiles of plutonium. The pluthermal program was originally scheduled to begin in 1999, and MOX fuel has been shipped from Britain and France to reactors in Fukui, Fukushima, and Niigata Prefectures. However, the program remains unimplemented due to the December 1999 BNFL MOX fuel data falsification scandal, and the May 2001 referendum in Kariwa village which resulted in a majority of residents voting against the use of MOX fuel at Tokyo Electric's Kashiwazaki-Kariwa Unit 3 nuclear power plant. Following the September 2002 announcement that Tokyo Electric systematically concealed inspection results from government regulators, the governors of Fukushima and Niigata prefectures withdrew their advance permission for the pluthermal program. On October 9, 2002 the governor of Fukushima Prefecture called on Prime Minister Junichiro Koizumi and the national government to review the justification for the nuclear fuel cycle.

Regardless of the AEC's advocacy of the nuclear fuel cycle, there is widespread public opposition to all plutonium utilization plans, and there is no guarantee that these plans will ever gain the consent of the Japanese public.

Given the abovementioned track record of previous LTPs, Green Action believes Japan's AEC is incapable of providing the United States government with a convincing schedule for the timely utilization of plutonium separated in Europe and plutonium to be separated at Rokkasho Based on the reasons outlined in this letter, we strongly urge the NRC to deny issuing a license to export this material.

Sincerely,

Aileen Mioko Smith

Aileen Mioko Smith
Director,
Green Action

Attachment A

Table 1:

Track Record of Long Term Programs

	●Construct a 600,000 kW demonstration reactor with the goal of having it operating by the latter half of 1990s	● Construct a demonstration reactor in Oma Village in early 2000s	● Not mentioned	● ABR development program was cancelled as a result of a July 1995 decision by FEPCO not to build an ATR reactor in Oma
	● Construct first demonstration plant by latter half of 1990s. ●Realize Commercial Use between 2010 — 2030	● Construction of first demonstration plant in the early 2000s ● Realize commercial use around 2030	● Restart Monju as soon as possible ● Research many types of FBR ● Be flexible with commercialization and the development plan	● The Monju prototype FBR had a fire leak and sodium accident in December 1995, and continues to be shut down.
	● Have one PWR and one BWR use MOX in the first half of 1990s ● Have around 10 units use MOX by latter half of 1990s	●Have some units use MOX in latter half of 1990s ● Have about 10 units use MOX around 2000. ● Have about 15 units use MOX during 2000 — 2010	● Have 16 — 18 units use MOX by 2010	● The pluthermal program is on hold due to the BNFL data falsification scandal, a referendum in Kariwa Village, and opposition of the Fukushima Governor

Graph 1:
Projected FBR Development Dates as Outlined in Previous LTPs